

## EXHIBIT 23

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:03-cv-10574-JLT**

Okmyansky v. Herbalife  
Assigned to: Judge Joseph L. Tauro

Referred to:

Demand: \$0

Lead Docket: None

Related Cases: None

Case in other court: None

Cause: 28:1442 Petition for Removal- Breach of Contract

Date Filed: 03/28/03

Jury Demand: Defendant

Nature of Suit: 190 Contract: Other

Jurisdiction: Diversity

**Plaintiff**  
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**Evgeny Okmyansky**

represented by **Joel Z. Eigerman**

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V.

**Defendant**  
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**Herbalife International of America,  
Inc.**

represented by

**Annapoorni R. Sankaran**

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*TERMINATED: 04/09/2003*  
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<b>Filing Date</b>	<b>#</b>	<b>Docket Text</b>
03/28/2003	<u>1</u>	Notice of Removal filed. Received from: Middlesex Superior Court; State Court Docket #: 03-0765. Assigned to: Judge Tauro Amount: \$ 150. Fee status: pd c/s (ssp) Modified on 05/07/2003 (Entered: 03/31/2003)
03/28/2003		Case assigned to to Ch. Mag Judge Marianne B. Bowler for any future references (ssp) (Entered: 03/31/2003)
03/28/2003	<u>2</u>	State Court Record (certified copy), filed. Service in state court on 2/24/03 Answer filed in state court on 07/24/03. filed (ssp) Modified on 04/17/2003 (Entered: 04/08/2003)
04/09/2003	<u>3</u>	Notice of appearance of attorney for Herbalife by Gary R. Greenberg, Annapoorni R. Sankaran, filed. c/s (ssp) (Entered: 04/10/2003)
04/09/2003	<u>4</u>	Notice of withdrawal of counsel by attorney Steven A. Kaufman for Herbalife filed. c/s (ssp) (Entered: 04/10/2003)
05/01/2003	<u>5</u>	Assented Motion by Evgeny Okmyansky, Herbalife for leave to file response to first amended complaint , filed. c/s (ssp) (Entered: 05/06/2003)

05/12/2003		Judge Joseph L. Tauro . Endorsed Order entered granting [5-1] motion for leave to file response to first amended complaint . [EOD Date 5/13/03] cc/cl (ssp) (Entered: 05/13/2003)
05/12/2003	<u>6</u>	Answer to Amended complaint and Jury Demand by Herbalife International of America, Inc..c/s(Spencer, Sherry) (Entered: 05/19/2003)
05/28/2003	<u>7</u>	NOTICE of Scheduling Conference Scheduling Conference set for 7/1/2003 11:15 AM in Courtroom 20, 7th floor before Joseph L. Tauro. cc/cl(Spencer, Sherry) (Entered: 05/29/2003)
05/28/2003	<u>8</u>	Judge Joseph L. Tauro : DISCOVERY ORDER entered. On or before, June 20, 2003, the parties shall have exchanged and reviewed all documents. cc/cl (Spencer, Sherry) (Entered: 05/29/2003)
06/20/2003	<u>9</u>	JOINT STATEMENT re scheduling conference. Conference set for 7/1/2003 11:15 AM in Courtroom 20 before Joseph L. Tauro. c/s (Spencer, Sherry) (Entered: 06/25/2003)
06/20/2003	<u>10</u>	JOINT MOTION to Bifurcate Discovery, MOTION for Approval of Phase I Discovery Plan by Herbalife International of America, Inc., Evgeny Okmyansky.(Spencer, Sherry) Modified on 6/25/2003 (Spencer, Sherry). (Entered: 06/25/2003)
06/20/2003	<u>11</u>	Defendant, Herbalife International's sworn statement in accordance with local Rule 26.1(b) to <u>7</u> Notice of Scheduling Conference Discovery Order dated May 28, 2003. (Spencer, Sherry) (Entered: 06/25/2003)
06/20/2003	<u>12</u>	List of persons it wishes to depose by Herbalife International of America, Inc... c/s(Spencer, Sherry) (Entered: 06/25/2003)
06/20/2003	<u>13</u>	Disclosure Statement by Herbalife International of America, Inc..c/s (Spencer, Sherry) (Entered: 06/25/2003)
06/20/2003	<u>14</u>	Certification by Herbalife International of America, Inc.. c/s(Spencer, Sherry) (Entered: 06/25/2003)
07/01/2003	<u>15</u>	Judge Joseph L. Tauro : ORDER entered ORDER DISMISSING CASE without Prejudice, for failure of the plaintiff to appear upon the session of July 1, 2003.....CASE CLOSED --See Order for more details..cc/cl(Spencer, Sherry) Modified on 7/16/2003 (Spencer, Sherry). (Entered: 07/03/2003)
07/11/2003	<u>16</u>	MOTION to Vacate <u>15</u> Order Dismissing Case, by Evgeny Okmyansky.C/S AND CERTIFICATE OF COMPLIANCE WITH

		RULE 3.01(B)(Spencer, Sherry) (Entered: 07/16/2003)
07/17/2003	<u>17</u>	MEMORANDUM in Opposition re <u>16</u> MOTION to Vacate <u>15</u> Order Dismissing Case, filed by Herbalife International of America, Inc.. c/s(Spencer, Sherry) (Entered: 07/22/2003)
07/17/2003	<u>18</u>	DECLARATION of Annapoorni R. Sankaran. c/s(Spencer, Sherry) (Entered: 07/22/2003)
07/18/2003	<u>19</u>	AFFIDAVIT OF Pavel Bespalko in Opposition to defendant's response to Plaintiff's motion to vacate order of dismissal <u>17</u> Memorandum in Opposition to Motion. c/s(Spencer, Sherry) (Entered: 07/23/2003)
07/21/2003	<u>20</u>	MOTION for Leave to File sur-reply to affidavit of Pavel Bespalko by Herbalife International of America, Inc.. Local Rule 7.1(A)(2) Certificate and c/s (Spencer, Sherry) (Entered: 07/28/2003)
07/23/2003		Judge Joseph L. Tauro : ENDORSED ORDER entered GRANTING <u>16</u> Motion to Vacate Order of Dismissal.. CASE WILL NOW BE RE-OPENED...CC/CL (Spencer, Sherry) (Entered: 07/28/2003)
07/25/2003	<u>21</u>	MEMORANDUM in Opposition and request for hearing re <u>20</u> MOTION for Leave to File sur-reply filed by Evgeny Okmyansky. c/s(Spencer, Sherry) (Entered: 07/30/2003)
07/31/2003	<u>22</u>	Plaintiff's statement pursuant to F.R.C.P. by Evgeny Okmyansky.c/s (Spencer, Sherry) (Entered: 08/04/2003)
08/05/2003		Judge Joseph L. Tauro : ENDORSED ORDER entered DENYING AS MOOT <u>20</u> Motion for Leave to File SUR-REPLY.....CC/CLNOTE-SUR-REPLY HAS BEEN FILED WITH MOTION. IT WILL NOT BE DOCKETED NOR SCANNED... (Spencer, Sherry) (Entered: 08/07/2003)
08/26/2003	<u>23</u>	Letter from Joel Z. Eigerman; DATED: August 25,2003; ADDRESSED TO: Mr. Lardiere; REGARDING: Status on case and also when will the conference take place?(Spencer, Sherry) (Entered: 09/02/2003)
11/19/2003	<u>24</u>	NOTICE of Hearing: Scheduling Conference set for 12/3/2003 11:30 AM in Courtroom 20 before Judge Joseph L. Tauro. cc/cl(Spencer, Sherry) (Entered: 11/20/2003)
12/10/2003	<u>25</u>	Notice Resetting or Cancelling Hearing. The conference schedule for December 16, 2003 at 10:00am has been cancelled. It has been re-scheduled for: January 6, 2004 at 10:15am..cc/cl (Spencer, Sherry)

		(Entered: 12/10/2003)
01/05/2004	<u>26</u>	JOINT STATEMENT re scheduling conference. (Sankaran, Annapoorni) (Entered: 01/05/2004)
01/06/2004	<u>28</u>	CERTIFICATION by Pavel Bespalko on behalf of Evgeny Okmyansky. C/S (Spencer, Sherry) (Entered: 01/13/2004)
01/07/2004	<u>27</u>	Judge Joseph L. Tauro : ORDER entered....After a conference on January 6, 2004, the court hereby orders that:SEE ORDER FOR FULL DETAILS...CC/CL (Spencer, Sherry) (Entered: 01/07/2004)
03/11/2004	<u>29</u>	MOTION for Protective Order by Herbalife International of America, Inc..(Sankaran, Annapoorni) (Entered: 03/11/2004)
03/11/2004	<u>30</u>	DECLARATION re <u>29</u> MOTION for Protective Order of <i>Annapoorni R. Sankaran</i> by Herbalife International of America, Inc.. (Attachments: # (1) Exhibit Exhibits A through I)(Sankaran, Annapoorni) Additional attachment(s) added on 3/12/2004 (Abaid, Kim). Additional attachment(s) added on 3/12/2004 (Abaid, Kim). (Entered: 03/11/2004)
03/11/2004		Notice of correction to docket made by Court staff. Correction: Exhibits for Document #30 corrected because: Document was filed over 20 page limit. I split it up into sections to correct. (Abaid, Kim) (Entered: 03/12/2004)
03/17/2004	<u>31</u>	MOTION for Leave to File <i>Reply to Plaintiff's Opposition to Defendant's Motion for Protective Order</i> by Herbalife International of America, Inc..(Sankaran, Annapoorni) (Entered: 03/17/2004)
03/17/2004	<u>32</u>	REPLY to Response to Motion re <u>29</u> MOTION for for Protective Order <i>Reply to Plaintiff's Opposition to Defendant's Motion for Protective Order</i> filed by Herbalife International of America, Inc.. (Attachments: # <u>1</u> Exhibit A)(Sankaran, Annapoorni) Modified on 3/18/2004 (Abaid, Kim). (Entered: 03/17/2004)
03/17/2004	<u>33</u>	Opposition re <u>29</u> MOTION for Protective Order filed by Evgeny Okmyansky. (Abaid, Kim) (Entered: 03/18/2004)
03/17/2004	<u>34</u>	MEMORANDUM in Opposition re <u>29</u> MOTION for Protective Order filed by Evgeny Okmyansky. (Abaid, Kim) (Entered: 03/18/2004)
03/17/2004	<u>36</u>	AFFIDAVIT in Support re <u>33</u> Opposition to Motion, <u>34</u> Memorandum in Opposition to Motion. (Abaid, Kim) (Entered: 03/18/2004)

03/18/2004		Notice of correction to docket made by Court staff. Correction: Docket Number 32 corrected because: Reply related to document 29 not 31. (Abaid, Kim) (Entered: 03/18/2004)
03/18/2004	<u>35</u>	Opposition re <u>20</u> MOTION for Leave to File Sur-Reply filed by Evgeny Okmyansky. (Abaid, Kim) (Entered: 03/18/2004)
03/19/2004	<u>37</u>	Judge Joseph L. Tauro : ORDER entered denying <u>29</u> Motion for Protective Order (Abaid, Kim) (Entered: 03/22/2004)
04/01/2004	<u>38</u>	MOTION to Compel Production of Documents and Further Answers to Interrogatories and for Sanctions by Evgeny Okmyansky.(Abaid, Kim) (Entered: 04/02/2004)
04/01/2004	<u>39</u>	MEMORANDUM in Support re <u>38</u> MOTION to Compel filed by Evgeny Okmyansky. (Abaid, Kim) (Entered: 04/02/2004)
04/01/2004	<u>40</u>	AFFIDAVIT of Pavel Bespalko in Support re <u>38</u> MOTION to Compel. (Abaid, Kim) (Entered: 04/02/2004)
04/09/2004	<u>41</u>	Joint MOTION for Extension of Time to 4/23/04 to File Response/Reply to <i>Plaintiff's Motion to Compel</i> by Herbalife International ofd America, Inc..(Sankaran, Annapoorni) (Entered: 04/09/2004)
04/23/2004	<u>42</u>	Joint MOTION for Extension of Time to 4-29-04 to File Response/Reply by Herbalife International ofd America, Inc.. (Sankaran, Annapoorni) (Entered: 04/23/2004)
04/29/2004	<u>43</u>	Joint MOTION for Extension of Time to May 4, 2004 to File Response/Reply as to <u>38</u> MOTION to Compel, <u>39</u> Memorandum in Support of Motion, <u>40</u> Affidavit in Support by Herbalife International ofd America, Inc..(Sankaran, Annapoorni) (Entered: 04/29/2004)
05/14/2004	<u>44</u>	AFFIDAVIT of Annapoorni R. Sankaran by Herbalife International of America, Inc.. (Abaid, Kim) (Entered: 05/17/2004)
05/14/2004	<u>45</u>	MOTION for Summary Judgment by Herbalife International ofd America, Inc..(Abaid, Kim) (Entered: 05/18/2004)
05/14/2004	<u>47</u>	MOTION to Transfer Venue by Herbalife International ofd America, Inc..(Abaid, Kim) (Entered: 05/18/2004)
05/14/2004	<u>48</u>	MEMORANDUM in Support re <u>47</u> MOTION to Transfer Case filed by Herbalife International ofd America, Inc.. (Abaid, Kim) (Entered: 05/18/2004)

05/14/2004	<u>49</u>	DECLARATION of Jackie Fisher by Herbalife International of America, Inc.. (Abaid, Kim) (Entered: 05/18/2004)
05/17/2004	<u>46</u>	MEMORANDUM in Support re <u>45</u> MOTION for Summary Judgment filed by Herbalife International of America, Inc.. (Abaid, Kim) (Entered: 05/18/2004)
06/07/2004	<u>50</u>	Opposition re <u>45</u> MOTION for Summary Judgment and to Transfer Venue filed by Evgeny Okmyansky. (Abaid, Kim) (Entered: 06/08/2004)
06/07/2004	<u>51</u>	Response to defendant's statement of undisputed facts and statement of additional undisputed facts by Evgeny Okmyansky. (Abaid, Kim) (Entered: 06/08/2004)
06/07/2004	<u>52</u>	MEMORANDUM in Opposition re <u>45</u> MOTION for Summary Judgment filed by Evgeny Okmyansky. (Abaid, Kim) (Entered: 06/08/2004)
06/07/2004	<u>53</u>	MEMORANDUM in Opposition re <u>47</u> MOTION to Transfer Case filed by Evgeny Okmyansky. (Abaid, Kim) (Entered: 06/08/2004)
06/07/2004	<u>54</u>	AFFIDAVIT of Evgeny Okmyansky. (Abaid, Kim) (Entered: 06/08/2004)
06/07/2004	<u>55</u>	AFFIDAVIT of Pavel Bespalko in Opposition re <u>45</u> MOTION for Summary Judgment. (Abaid, Kim) (Entered: 06/08/2004)
06/14/2004	<u>56</u>	Response by Herbalife International of America, Inc. to <u>51</u> Response and Plaintiff's Statement of Additional Undisputed Facts. (Sankaran, Annapoorani) (Entered: 06/14/2004)
06/14/2004	<u>57</u>	DECLARATION of Joan Kardashian by Herbalife International of America, Inc.. (Sankaran, Annapoorani) (Entered: 06/14/2004)
06/21/2004	<u>58</u>	Judge Joseph L. Tauro : Order Entered: The Parties are to file cross-motions for Summary Judgment on the underlying contractual issue of whether Defendant had authority to refuse to pay Plaintiff the commissions and bonuses in issue; The cross-motions for Summary Judgment must be filed by July 12, 2004; Any responses to the cross-motions for Summary Judgment must be filed by July 26, 2004; <u>38</u> Motion to Compel has been withdrawn, <u>45</u> Motion for Summary Judgment is denied without prejudice, and <u>47</u> Motion to Transfer Case is denied without prejudice. (Abaid, Kim) (Entered: 06/22/2004)



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07/08/2004 15:25:22			
PACER Login:	gt0395	Client Code:	62624-010100
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